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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,494	06/12/2001	Carol B. Gell	PPC-787	5028

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT PAPER NUMBER

3761

DATE MAILED: 07/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/879,494

Applicant(s)

GELL ET AL.

Examiner

C. Lynne Anderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-28 is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☒ Claim(s) 12-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 5-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Rubio (6,475,203).

With respect to claim 1, Rubio discloses a feminine hygiene pad 10, as shown in figure 1, comprising a main pad body 12 having an absorbent core 16 positioned between a cover material and a barrier layer, as shown in figure 2. The main pad body 12 has a rear end 34 and a front end 28, as shown in figure 1. The main pad body 12 also has a thickness, as shown in figure 2. The pad 10 further comprises a strip 20, being relatively planar and having a thickness less than that of the main pad body 12, as shown in figure 2. The strip 20 extends rearwardly from the rear end 34 of the main pad body 12. The strip 20 is configured to be received between the buttocks of a wearer, as described in column 1, lines 33-36.

With respect to claim 5, it is well known in the art to provide the opposing second face of a feminine hygiene pad with an area of adhesive to provide a means of attachment to the garment of a wearer. It would therefore be obvious to one of ordinary

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skill in the art at the time of invention to construct the feminine hygiene pad of Rubio with an area of adhesive, to provide a means of attachment.

With respect to claim 6, the pad 10 further comprises a front flap 14, as shown in figure 2, extending forwardly from the front end 28 of the main pad body 12.

Claims 1-3 and 5-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Samuelsson et al. (6,425,890).

With respect to claim 1, Samuelsson discloses a feminine hygiene pad 1, as shown in figure 1, comprising a main pad body 5, having an absorbent core 6 positioned between a cover material 2 and a barrier layer 3. The pad 1 further comprises a rear end that may be located in proximity to a wearer's buttocks, and an opposed front end having a first face in contact with a wearer's body and a second face in contact with a wearer's undergarment, as shown in figure 3. The absorbent core 6 does not extend significantly beyond the anterior portion of the perineum of a wearer. The pad 1 further comprises a strip 9 that extends rearwardly from the main pad body 5. The strip 9 is substantially planar, and has a thickness less than that of the main pad body 5, as shown in figure 3. The strip 9 is capable of being received between the buttocks of a wearer, thereby contributing to the stability of the pad 1. The strip 9 is comprised of materials that are able to be stretched, as disclosed in column 4, lines 35-57. While Samuelsson does not explicitly disclose the materials as being stretchable, it is well-known in the art that nonwoven fabrics and films are inherently stretchable. The length of the strip 9 can be adjusted by a wearer by stretching the material of the strip 9.

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With respect to claim 2, the length of the main pad body 5 is between 7 cm and 14 cm, as disclosed in column 5, lines 39-41.

With respect to claim 3, given the length of the main pad body 5 being 7 cm, the thickness of the strip 9 is 0.36 cm, as measured in figure 3.

With respect to claim 5, the second face comprises an area of adhesive 15, as disclosed in column 5, lines 7-10.

With respect to claim 6, the pad 1 further comprises a front flap 8 extending forwardly from the front end of the main pad body 5, as shown in figure 3.

With respect to claim 7, the front flap 8 is comprised of materials that are able to be stretched, as disclosed in column 4, lines 35-57.

With respect to claim 8, the front flap 8 comprises an area of adhesive 15, as shown in figure 3, which is capable of being attached to the undergarment of a wearer.

With respect to claim 9, the front flap comprises an area of adhesive 15, as shown in figure 3, which is capable of being attached to the body of a wearer. The front flap 8, for example may be folded over to allow the area of adhesive 15 to attach to the body of a wearer while the pad 1 is in use.

With respect to claim 10, the strip 9 is flexible.

With respect to claim 11, the materials comprising the strip 9 are non-elastic, as disclosed in column 4, lines 35-57, and therefore will not return to their original length when stretched. The adjustment means are therefore non-elastic.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rubio (6,475,203) as applied to claim 1 above, and further in view of Sturino (5,713,886).

Rubio discloses all aspects of the claimed invention but remains silent as to the thickness and the width of the strip. Rubio discloses a feminine hygiene pad having a minimal size so it may be used with small sized textiles, as described in column 1, lines 25-27.

Sturino discloses a feminine hygiene pad 10, as shown in figure 1, designed for use with small sized textiles, as described in column 1, lines 25-30. The pad 10 has a width of about 8.9 cm, which provides the pad with a suitable size for use with small sized textiles, as disclosed in column 2, lines 37-38.

It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the pad of Rubio with a width of 8.9 cm, as taught by Sturino, to provide the pad with a suitable size for use with small sized textiles.

Given a main pad body 12 with a width of 8.9 cm, the pad 20 of Rubio would have a main pad body length of about 9 cm, as measured in figure 1. The pad 10 would

further have a strip width of about 2 cm and a strip thickness of about 0.2 cm, as measured in figures 1 and 2.

Allowable Subject Matter

The indicated allowability of claims 3 and 4 is withdrawn in view of the newly discovered reference(s) to Rubio (6,475,203). Rejections based on the newly cited reference(s) follow. The indicated allowability of claim 3 is withdrawn in view of further examination of reference(s) to Samuelsson et al. (6,425,890).

Claims 12-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 19-28 are allowed.

Response to Arguments

Applicant's arguments filed 31 March 2003 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the force required to stretch the strip) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Samuelsson et al. disclose an absorbent article fulfilling all limitations of the instant claim 1. The rear portion of the pad disclosed by Samuelsson, which extends

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from the end of the main body portion to the distal end of the pad, may be defined as a strip. The strip is planar and relatively small in thickness, as shown in figure 3. The rear portion of the pad is fully capable of being placed between the buttocks of a wearer, and in that position would function to retain the main pad body adjacent to the wearer. The materials from which the strip is produced are capable, when subjected to sufficient force, of being stretched.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

cla

cla
June 30, 2003



WEILUN LO
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